

INTERNAL REVENUE SERVICE

DEPARTMENT OF THE TREASURY

DISTRICT DIRECTOR

VIL

Date:

JUN 28 1999

501-06-01

> Refer Reply to:

> Person to Contact:

> Contact Telephone Number:

Dear Sir or Madam:

In a determination letter dated , you were held to be exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

Recent information received disclosed that your organization is not operating in accordance with the provisions of section 501(c)(6) of the Code.

Accordingly, your exemption from Federal income tax is revoked effective . You are now required to file Federal income tax returns on Form 1120 for all years beginning on or after .

This is a final adverse determination letter with regard to your status under section 501(c)(6) of the Code.

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Ladd Ellis

Ladd Ellis
District Director

EXPLANATION OF ITEMS

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Name of Taxpayer

Year/Period Ended

ISSUE: Should the
under IRC 501(c)(6) be maintained.

exempt status

FACTS:

Association of Credit Unions was formed to develop and promote interest and cooperation between credit unions in the State of ; to promote the proper organization of new credit unions; to render aid and assistance to member institutions; and to provide services furthering the progress of all credit unions within the State of .

The organization had approximately 112 member credit unions in 1 and there are currently 73 member credit unions. Membership dues include an annual registration fee of \$500, plus \$.70 per each member of the credit union, with a maximum of \$3,500.

The organization was described in its printed material as "presenting a full program of services to credit unions."

The first service listed was a management assistance service. The service was described as providing consultation and guidance especially for operations personnel, in all areas of credit union management. The members can call the President whenever they need assistance. In the past he has worked with a liquidating credit union, provided bankruptcy advice, organized planning sessions, and assisted in the implementation of programs. The organization also acted as a clearinghouse for information, research, statistics, planning services and more.

The organization provided members with educational seminars and training. Seminars included training in the duties of credit union officers and directors. Training was also provided to credit union committees. Additional training was provided about the laws and regulations that effect credit unions.

Another service was the sale of custom designed credit union forms for day-to-day use. Members could purchase around 69 different types of standard credit union forms. The types of forms sold ranged from deposit slips, withdrawal slips, truth in lending disclosure statements, passbooks, loan applications, delinquent notices, and applications for membership. All forms included the approved legal terminology to conform with laws and regulations and assure that the credit union was intentionally sound in its administrative procedures. The organization sold the forms at cost to the members. When the forms became outdated they were thrown out and written off as a loss. The organization also provided members with a mailing that reminded them of

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important due dates for filing federal/state reports and forms.

Members were provided with a monthly news bulletin and a continuing series of special reports on issues of importance to credit unions. Also provided was a quarterly newsletter of industry news, and regulatory updates.

Another service described in the printed material was a field service. As part of this service a qualified field representative would provide individual guidance on management problems or any other aspect of credit union procedures. Also provided was assistance to entities in the creation of new credit unions.

The organization kept members informed of legislation that may effect them through legal information and legislative alerts.

provided as a service to member credit unions an insurance program. The Share and Loan Insurance and Disability insurance was issued by an insurance carrier- F y. The organization provided various administrative duties as agent to the policyholder per a contract with the insurance carrier. The president spent 60% of his time involved with this activity. He coordinated the insurance program between the member and the insurance company. He also answered questions for members, dealt with procedural issues, and managed the activities of the part-time insurance coordinator. The insurance coordinator spent 100% of their time on this activity. The insurance coordinator collected premiums, payed claims, handled paperwork, and maintained financial records for the activity. According to notes from the organization's financial statements, income from this activity was derived from retention of a portion of each premium paid by a member credit union and premium refunds/dividends from the insurer. Also noted in the financial statements was that the insurance income was used to defray a portion of the Association's operating expenses. In a statement dated , the organization stated that 38% of their revenues came from this activity alone.

The organization also provided a referral service. Members are referred to accountants, attorney's, collection agencies, and Master Card/Visa venders.

Other activities included an annual meeting and an annual golf outing.

LAW:

Section 501(c)(6) of the Internal Revenue Code provides for exemption of "business leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund

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for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of Income Tax Regulations reads as follows:

"BUSINESS LEAGUES, CHAMBERS OF COMMERCE, REAL ESTATE BOARDS AND BOARDS OF TRADE. A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. An association engaged in furnishing information to prospective investors, to enable them to make sound investments, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated. A stock or commodity exchange is not a business league, a chamber of commerce, or a board of trade within the meaning of section 501(c)(6) and is not exempt from tax. Organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income. See sections 511 to 515, inclusive and the regulations thereunder.

Revenue Ruling 56-65, 1956-1, C.B. 199., states that a local organization whose principal activity consists of furnishing particular information and specialized individual service to its members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses is performing particular services for individual persons. Such organization, therefore, is not entitled to exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code as a business league even though it performs functions which are of benefit to the particular industry and the public generally.

Revenue Ruling 66-338, 1966-2, C.B. 226., states that an organization formed to promote the interests of a particular retail trade which advises its members in the operation of their individual businesses and sells supplies and equipment to them is not exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

Associated Master Barbers & Beauticians of America, Inc. v. Commissioner, 69 T.C. 53 (1977) the court ruled that the organization did not qualify as a tax-exempt trade association or business league because it engaged in a regular business of a kind ordinarily carried on for profit and its activities were directed to the performance of particular services for individual

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members.

Carolina Farm & Power Equipment Dealers Assn v. United States 699 F. 2d 167 (4th Cir., 1983) the court ruled that the profit motivated insurance activities constituted the performance of a service for its individual members rather than for the related trade industry as a whole.

Illinois Association of Professional Insurance Agents, Inc. v. Commissioner, 801 F. 2d 987 (7th Cir. 1986) the court ruled that the promoting and providing administrative services in connection with a commercial insurance program constituted a trade or business. The organization intended to, and did profit from the activities, which were of the type performed by tax-paying private commercial entities. Because the organization could provide the services at a cheaper rate due to its tax-exempt status, the commercial organizations were at a competitive disadvantage.

ARGUMENT/GOVERNMENT'S POSITION:

Organization's exempt under IRC 501(c)(6) are organized and operated to promote the common business interest of its members. The activities are directed toward the improvement of business conditions of one or more lines of business, as distinguished from the performance of particular services for individual persons.

The educational seminars, annual meeting, newsletter and legislative alerts appear to be activities that promoted the common business of your members as a whole.

All the other activities, the management assistance service, credit union forms service, field service, insurance service, and referral services are designed to aid your members in the operation of their individual businesses.

As in Revenue Rulings 56-65 and 66-338, your organization's management assistance and field service programs provided member credit unions with advice with their individual business. This activity is a particular service for members and does nothing to promote the improvement of business conditions in the industry as a whole.

Revenue Ruling 66-338 goes on to state that the sale of forms and other supplies to members for use in the operation of their business is a particular service for members. Members are provided with forms at a cheaper cost than if they had to buy them as individuals, and one place to buy the forms. Even though the organization did not sell these forms at prices to make a profit, the activity constituted a business of a kind ordinarily carried on for profit.

Finally you admitted that the insurance activity took up a lot up time and

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generated a large amount of money for the organization. Your participation in the insurance activity was not incidental. Even though you did not provide the insurance directly, you provided the administrative duties such as collecting premiums, paying premiums and coordinating service with the insurance company. As in the Carolina Farm & Power court case, the operation of your organization's insurance service constituted the performance of a particular service for members rather than for the industry as a whole. Additionally as in the Illinois Association of Professional Insurance Agent's case, your organization's insurance activity constituted a trade or business that was regular carried on and not substantially related to the tax-exempt purposes of the organization. These administrative activities would normally be the responsibility of the insurance carrier, but in an effort to provide a low cost and efficient service to your members you engaged in these activities. These activities were also carried on to generate a profit. The income from this profit was used to cover operating expenses not met by the membership dues paid by the member credit unions. And finally the activity is not substantially related to the exempt purposes of the organization since the conduct of a regular business ordinarily carried on for profit is not an exempt activity.

Based on an analysis of your activities your organization is organized primarily to provide particular services to your members. You admitted yourself that the insurance activity is a significant activity. It alone generated 38% of income, occupied 60% of your president's time and 100% of the insurance coordinator's time. When you add in the other particular services management assistance service, forms service, field service and referral service, it becomes evident that most of your activities are geared toward providing services to members. Your organization is similar to the organization described in the Association Barber court case in that the bulk of your activities constitute particular services and thus your organization does not qualify for exemption as an organization described as exempt under IRC 501(c)(6).

CONCLUSION:

The organization's exempt status under IRC 501(c)(6) should be revoked effective

A form 1120 corporate income tax return should be filed to report the income and expenses of the organization.